

MARION TOWNSHIP
ZONING BOARD OF APPEALS
PUBLIC NOTICE

Marion Township Zoning Board of Appeals will hold a Public Hearing on Monday, June 1, 2020 at 7:30 p.m. The meeting will be held Via online meeting at www.mariontownship.com using 'gotomeeting'. Reference the link on the main page for access to the meeting prior to 7:30 p.m. If you have questions or issues contact the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, (517) 546-1588. The purpose of the meeting is for regular business and to hear a request for the following appeal, interpretation and/or variance.

ZBA Case #01-20 – Tax Code 4710-25-202-041

Applicant: Stephen & Audine Puckett
Property Address: 4321 Rurik Drive
Howell, MI 48843

Request: The applicant is seeking a variance for
Section 8.04 E.2.a ERS-1 Front Yard setback 50 feet and 6.19A2 no more
Than 1 driveway per parcel.

Submittals can be viewed online at www.mariontownship.com under agendas/minutes, click on link to Zoning Board of Appeals.

Interested parties may review the above mentioned proposal at the Marion Township Hall during regular business hours, Monday thru Thursday from 9:00 a.m. to 5:00 p.m.

Those unable to attend the public hearing are invited to submit written comments to the attention of the Zoning Board of Appeals Chair, Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843 by 5:00 p.m. on Thursday May 28, 2020.

DAN LOWE, SECRETARY
ZONING BOARD OF APPEALS

Submitted by: S. Longstreet

Approved: _____

MARION TOWNSHIP
ZONING BOARD OF APPEALS
NOVEMBER 4, 2019

MEMBERS PRESENT: Larry Fillinger, Linda Manson-Dempsey, Larry Grunn, Dan Lowe, and Diane Bockhausen

MEMBERS ABSENT: None

OTHERS PRESENT: Dave Hamann, Zoning Administrator

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:31 p.m.

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as presented. Dan Lowe seconded. **Motion carried.**

CALL TO THE PUBLIC

No response.

APPROVAL OF MINUTES

September 9, 2019 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Larry Grunn seconded. **Motion carried.**

OLD BUSINESS: None

NEW BUSINESS

ZBA Case #05-19—Gary McKay, 1451 Triangle Lake Rd., Howell, MI, Tax Code #4710-27-401-019; Seeking interpretation of Section 6.10 and variance request for Section 8.04 E 3—ERS-1 Front Yard Setback

The applicant, Gary McKay, was present to request a variance for a deck that would encroach on the front yard setback, which is on the lake side of the property. He said the original plan had to be changed due to incorrect information he received from the Livingston County Health Department regarding his septic system.

Linda Manson-Dempsey said that nothing is marked on the plan he submitted. Dan Lowe felt the information provided was unclear and confusing. Dave Hamann reminded the ZBA members that they can contact him anytime for clarification. Ms. Manson-Dempsey said she doesn't feel there's a hardship, and the house should

have been designed with the existing septic field in mind. Mr. McKay explained that's what he did, but the information he was given by the county was incorrect.

Dave Hamann said the ZBA is considering two things: his interpretation of 6.10—Front Setback Reductions and the variance request for Section 8.04 E 3.

Diane Bockhausen said she doesn't believe the proposed deck wouldn't impede anything for the neighbors.

Linda Manson-Dempsey said there aren't enough details, there were a series of errors, this shouldn't be the ZBA's role, and the Planning Commission has nothing to do with ZBA decisions.

Dan Lowe said he would rather postpone a decision until the ZBA has more dimensional information.

Call to the Public

Planning Commissioner Bruce Powelson, 3466 Pingree, said this situation was discussed at the most recent Planning Commission meeting, and the township's planner felt this was a reasonable request due to circumstances beyond the property owner's control.

Motion

Linda Manson-Dempsey motioned for ZBA Case #05-19—Gary McKay, 1451 Triangle Lake Rd., Tax Code #4710-27-401-019, Section 8.04 E 3 to grant a 14 foot variance to the 50 foot front yard setback. The ZBA granted this variance considering the following criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *This restriction would prevent the owner from building a deck facing the lake.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *Due to the fact that this is a lakefront lot, any lesser relaxation would not give substantial relief.*
3. That the request is due to the unique circumstances of the property. *The circumstances were created by the Livingston County Health Department who provided incorrect information on the location of the drain field.*
4. That the alleged hardship has not been created by a property owner. *This situation was not created intentionally.*
5. That the difficulty shall not be deemed solely economic. *The difficulty is not deemed economic.*

Diane Bockhausen seconded. Roll call vote: Bockhausen, Manson-Dempsey, Fillinger, Grunn, Lowe—all yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn at 8:21 pm. Diane Bockhausen seconded. **Motion carried.**

RECEIVED
RECEIVED
MAY 11 2020
MAY 12 2020

APPLICATION TO ZONING BOARD OF APPEALS

MARION TOWNSHIP
MARION TOWNSHIP

ZBA Case # 01-20
Tax Code 4710-25-202-041
Current Zoning ERS-1
Fee Paid 400
Date Received 5-12-2020
Received by DH.

Applicant Stephen AND Audine Puckett
Address 4321 RURIK DRIVE
Telephone (cell) 313-418-6607
(Home) (Work)

Applicant is (check one): Owner Purchaser Representative

Purchaser or Representative needs a letter of permission from owner

Nature of Request (check applicable one)

- Administrative Review (per Section 5.05 A)
- Interpretation of Ordinance (per Section 5.05 B 1, 2, 3 or 4)
- Variance Request (see below)

1. Zoning Ordinance Section

8.04.E.2a ERS1 - 50 FOOT FRONTAGE (19 FOOT)
6.19 A 2 NO MORE THAN 1 DRIVEWAY
31 FOOT VARIANCE

2. Letter stating reason request should be granted (per Section 5.05 C) ✓

3. Requirement per Section 4.03 D ✓

4. Required Livingston County Health Department evaluation

(Refer to checklist on last page for additional instructions)

By signing this application, permission is granted for official representative(s) of Marion Township to do onsite inspections.

[Signature]
Signature

MAY 12th 2020
Date

Office Use Only	
Meeting Date <u>JUNE 1, 2020</u>	Action Taken _____
Conditions (if applicable) _____	
Signed _____	

①

Section 5.05

Authorized Appeals

The Zoning Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

A. **Administrative Review:** The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by any Township official or by the Planning Commission in administering or enforcing the provisions of the Zoning Ordinance.

B. **Interpretation of the Ordinance:** The Zoning Board of Appeals shall hear and decide upon requests to:

1. Interpret the provisions of the Zoning Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Zoning Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Zoning Ordinance.
2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator. (See Section 7.04.)
3. Classify a use that is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or prohibited use, the Zoning Board of Appeals shall so declare, the effect being that use is not permitted in the Township until or unless the text of the Zoning Ordinance is amended to permit it.
4. Determine the parking space requirements of any use not specifically mentioned by classifying it with one of the groups listed in Article XIV by an analysis of the specific needs. If no comparable use is found, the Zoning Board of Appeals shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of the Zoning Ordinance.

C. Variances

The ZBA shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations and other similar requirements as specified in the ordinance. The existence of nonconforming structures or buildings on other lands, or in other districts, shall not create a precedent, or be the basis for a variance. To obtain a variance, the applicant shall submit sufficient information to enable the Board of Appeals to determine that a practical difficulty exists, if applicable, by explaining:

1. That the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use. —
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property. —
3. That the request is due to the unique circumstances of the property. — *Sophia B.A. + well*
4. That the alleged hardship has not been created by a property owner. —

Isambard

5. The difficulty shall not be deemed solely economic.

Following review and consideration of the above and in order to grant a variance, the Board of Appeals:

Shall find that the reasons set forth in the application and as explained above justify the granting of the variance and that it is the minimum variance that will make possible the reasonable use of the land, building or structure; and

Shall further find that the granting of the variance will be in harmony with the intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public interest.

The ZBA shall not approve an application for a variance unless it has found positively that a practical difficulty exists under the five preceding criteria. If any criteria does not apply, the Zoning Board of Appeals shall justify why it does not apply.

Use variances are strictly prohibited. A variance shall not permit the establishment, within any district, of any use, which is not permitted by right, special use permit or by a temporary land use.

- D. **Conditions:** In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance (see Section 6.15.) Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the variance.

E. **Approval Period**

The decision of the Zoning Board of Appeals shall expire after one year unless a building permit for the construction is obtained and construction is started in accordance with the terms of the permit and the requirements of the Zoning Board of Appeals. The Zoning Board of Appeals may grant no more than one extension, for up to one year, provided the applicant demonstrates that they have been diligently working toward completion and the delay is due to conditions beyond their control.

- F. **Rehearing:** No rehearing on an application denied by the Zoning Board of Appeals shall be reconsidered except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon inspection by the Zoning Board of Appeals to be valid. A rehearing shall be processed in the same manner as the original application, including payment of the required fee. A request for rehearing shall be made on behalf of the applicant by either the Township Board or Zoning Board of Appeals within eight (8) days. No land use permit shall be granted which relies upon a variance before eight (8) days following the decision of the Zoning Board of Appeals have expired.

- G. **Reapplication:** After eight (8) days following a decision by the Zoning Board of Appeals, no application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

Section 5.06

Appeal Procedures

- A. **Notice of Appeal:** Appeal requests for Ordinance interpretation and requests for variances may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer, or department, board, or bureau of the state or of the Township, by filing a written Notice of Appeal with the Township Clerk on forms established for that purpose and accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a land use permit (either a plot plan or site plan) in Section 4.03.D. shall be submitted. Upon receipt of a Notice of Appeal, the Township Clerk shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the Zoning Board of Appeals. Any appeal from the ruling of the Zoning

Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within thirty (30) days after the date of the Zoning Administrator's decision or the decision shall be final.

- B. **Stay:** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal has been filed with he or she, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, issued by the Zoning Board of Appeals or by a court of record.
- C. **Hearing:** Upon receipt of a Notice of Appeal or of an application for Ordinance interpretation, or variance request, the chairperson of the Zoning Board of Appeals shall schedule a reasonable time and date for a public hearing and give notice as provided in section 103 of PA 110 of 2006, as amended.

Upon receipt of a Notice of Appeal seeking an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing.

If the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to all occupants of all structures within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

- D. **Appearance:** At the hearing, a party may appear in person or by agent or attorney. The Zoning Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- E. **Decision:** The Zoning Board of Appeals shall render its decision within sixty (60) days of filing of a Notice of Appeal, or application for Zoning Ordinance interpretation or variance, unless in the opinion of Zoning Board of Appeals, an extension of time is necessary to review information pertinent to making the decision. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass under the Zoning Ordinance or to grant a variance in the Zoning Ordinance.
- F. **Fee:** A fee as established by the Township Board shall be paid to the Township Clerk at the time the petitioner files an application with the Zoning Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the Board in connection with the appeal. No fee shall be charged if the Township is the moving party.
- G. **Performance Guarantee:** In authorizing any variance, or in granting any temporary dwelling permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or similar instrument acceptable to the Township covering the estimated cost of conditions or improvements associated with a project for which zoning approval is sought, be deposited with the Township Clerk to insure faithful conformance with the conditions or completion of the improvements. Such performance guarantee shall be collected and returned pursuant to the requirements of Section 4.06.

Section 5.07

Review By Circuit Court

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for Livingston County as provided for in PA 110 of 2006, as amended.

Zoning Board of Appeals meetings are generally held on the first Monday of the month; please refer to the township's meeting schedule for dates

- ✧ **Submit ten copies of all materials you want the Zoning Board of Appeals to review with the exception of the application**
- ✧ **Applicant must sign document addressing 5.05 C items 1 through 5**
- ✧ **Submit package three weeks prior to the meeting you choose to attend**
- ✧ **Provide well & septic documents from the Livingston County Environmental Health showing the location of well/septic field and reserve area**
- ✧ **The residential application fee is \$400.00 all other applications are \$1,000.00**
- ✧ **If the applicant is representing the owner, the owner must provide a signed letter of permission**
- ✧ **If applicable, mark or stake the area on your parcel where you are requesting a variance; place the orange ZBA sign (provided by the township) so the ZBA members can easily identify your property**

May 12, 2020

Letter of intent for request of variance
4321 Rurik Dr. Howell , Michigan 48843

This letter of intent is in support of my request for a "front yard" variance. Being on a corner lot I understand my property has what is considered 2 frontages.

My request is for you to allow me to add a family room addition and 2 car garage to my existing " very small" 1250 sq foot home. Having three adult children , 2 of which are in the military and live out of state. When they come over with the grandchildren there is very little room in one small living area. The proposed addition would give us an additional 576 sq feet with a first floor laundry. The only side of my home that the addition can go on is the requested east side. The rear of the home is where the 28X47 new septic field is. The west side is where the three bedrooms are, and the front would not allow building due to the well location.

As such, based on the current "site development" standards for existing residential subdivisions (ERS 1) my minimum required setback for my 2 frontages is 50 feet.

I understand my "sub division" started development in the 1950's. Back then, they were considered " lots of record" which is defined as a lot which is part of a sub division recorded by the County, which is prior to the adoption or amendment of the new ordinance used today. However in an effort to provide a better living for my family I need to appeal the present ordinance and plea to you, the ZBA.

Having to climb 14 large steps up to my front door is not a concern or inability at this time in my life. Although in the near future with a medical condition which has effected my balance considerably, the front steps will be a challenge. That being said the additional garage that will attach to the family room will greatly help me along with a first floor laundry room which will keep me from using the steep basement steps.

Having one of the largest lots in the subdivision and possibly the smallest home, I truly feel I have satisfied the required variance standards.

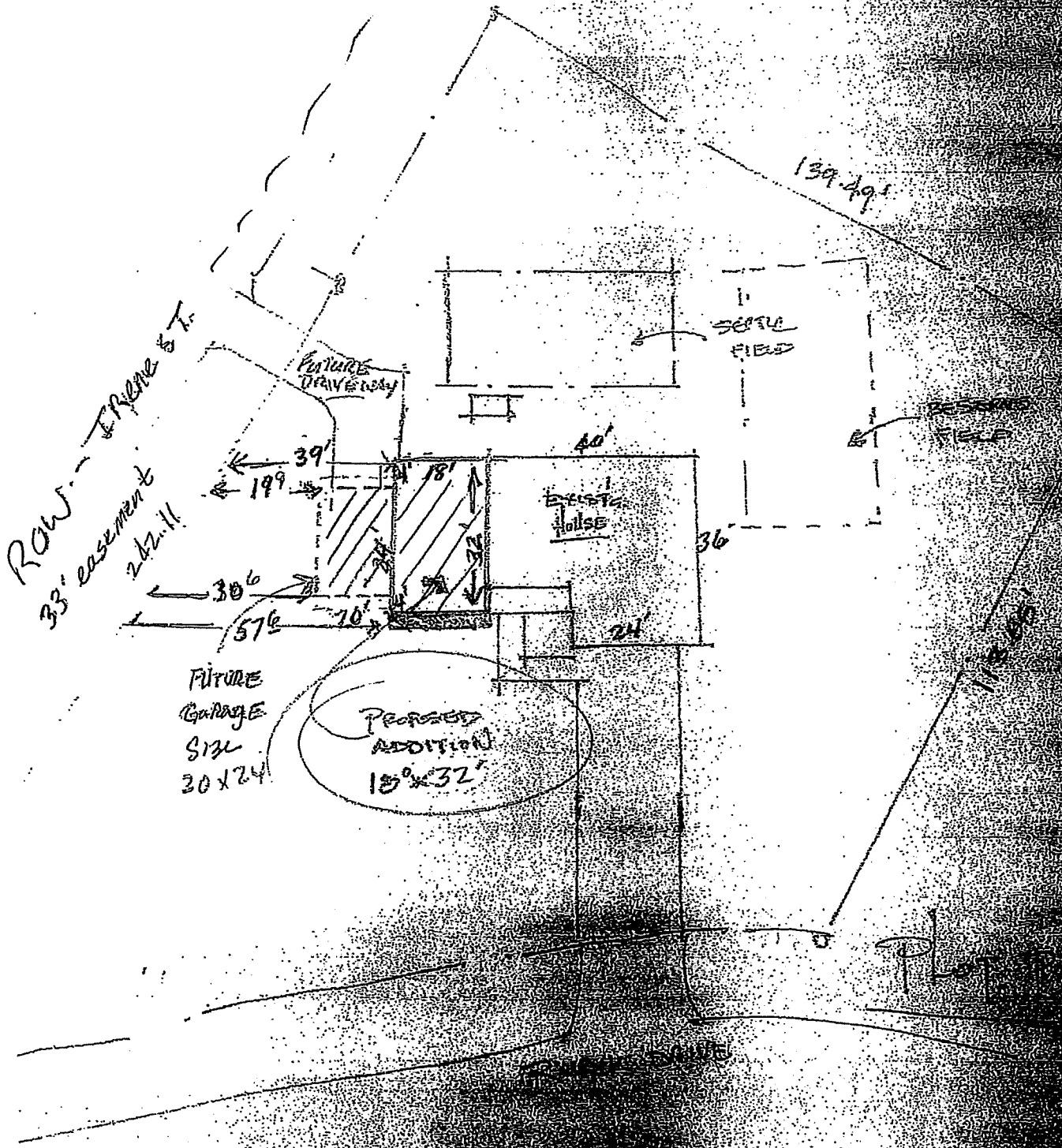
I respectfully ask for your approval.

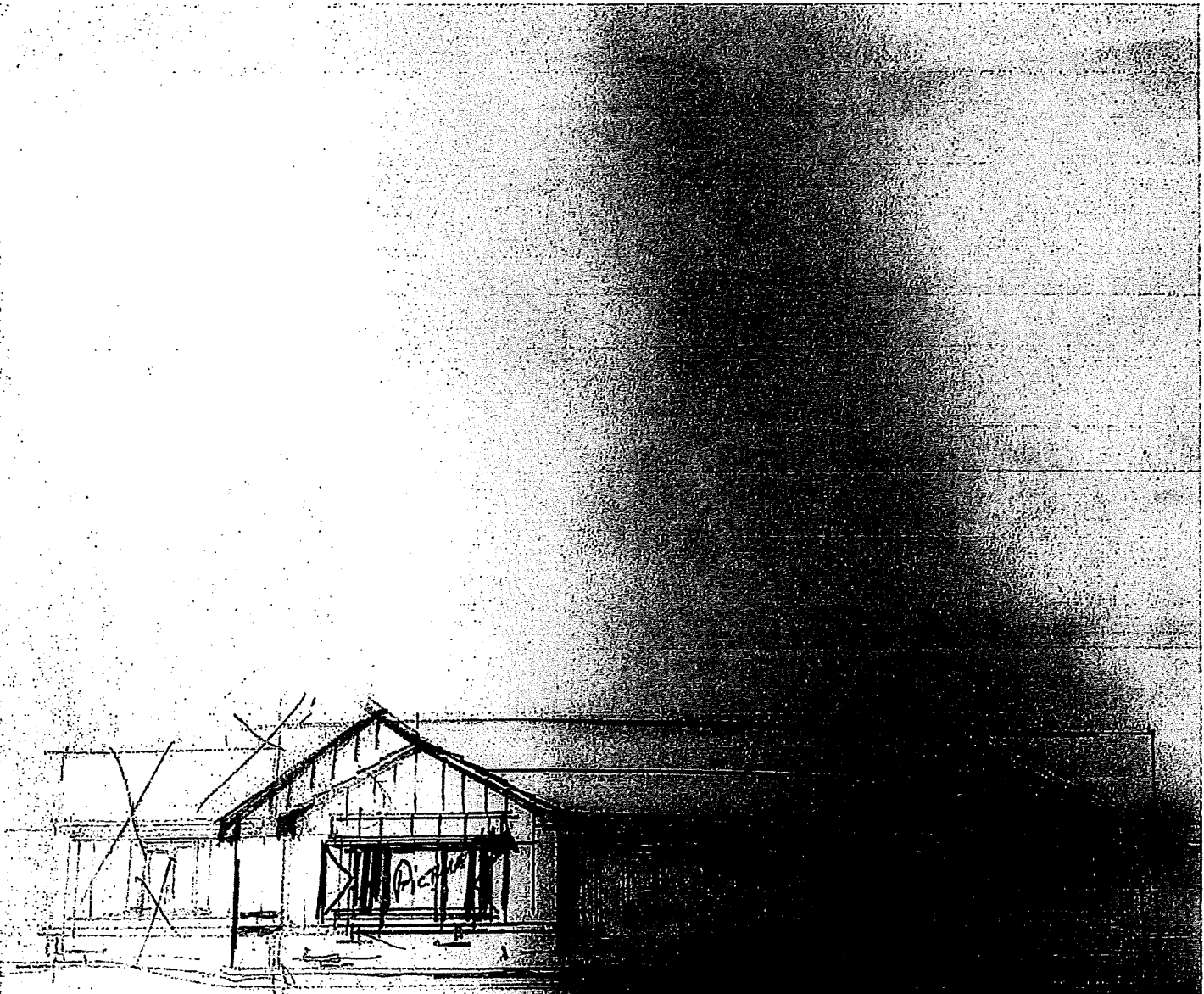
Respectfully submitted,



Stephen J Puckett

RE: 4321 RURAL DR.
ADDITION



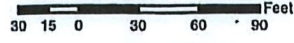


FRONT ELEVATION

G.M.S.



Livingston County, Michigan
 Information Technology Department
 G.I.S. Division 517.548.3230



10-25-202-041



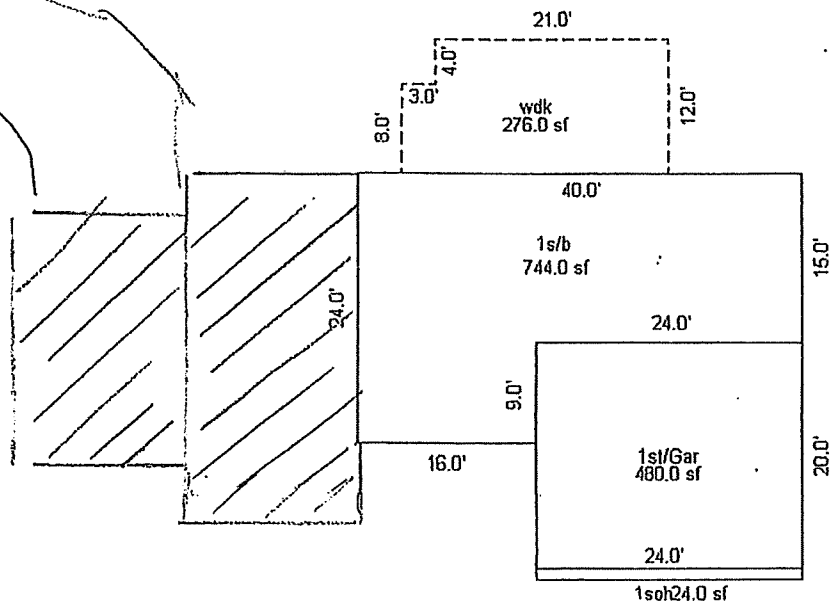
Orthophotos Flown Spring 2015
 Printed February 11, 2019
 Parcel lines are a representation only;
 Not intended for survey purposes.



11/11/2023 10:11:11 AM

FUTURE
DRIVEWAY
OFF
L. KENNEDY R.

Image/Sketch for Parcel: 4710-25-202-041



Sketch by Apex IV™

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Bob Hanvey

From: Tom VanderPlas <tomvpsr@hotmail.com>
Sent: Tuesday, May 26, 2020 11:22 AM
To: Robert Hanvey; za@mariontownship.com
Subject: ZBA Case #01-20

Good Morning Bob Hanvey, Dave Hamman and other Zoning Board members

I have been notified that Stephen and Audine Puckett of 4321 Rurik Drive are requesting a Variance for the purpose of future additions. As the neighbor of the adjoining lot to the South I am satisfied that these additions will not interfere with our vision of the lake or roadway. Due to the fact that their existing garage provides a hardship entrance for disabled or older people, the addition of an upper level garage would alleviate that condition. Dave would you please distribute this if required to the other Zoning Board members prior to the meeting.

I will try to attend the On-line June 1st board meeting also.

Thank You, Tom VanderPlas 1877 Olympia Drive and adjoining Lot.